## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

DIRECTOR, TDCJ-CID §

## MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND ENTERING FINAL JUDGMENT

The Petitioner Darrell Harper, proceeding *pro se*, filed this petition for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. This Court ordered that the petition be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Harper stated that he is challenging both his conviction and a prison disciplinary proceeding, but all of his grounds for relief concern his conviction. He argued that the trial court failed to uphold the integrity and independence of the judiciary, he was subjected to racism in the workplace, civil rights violations cannot be prosecuted in state courts, he was improperly tried in state court on charges of terroristic threat and retaliation because these should have been federal offenses, he was not allowed to present evidence that another person committed the crime, he was denied effective assistance of counsel, and the State failed to disclose evidence favorable to him. He argues that no rational juror could have found him guilty beyond a reasonable doubt and that civil rights violations carry no statute of limitations.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the petition because Harper has been barred from filing new civil actions as a result of sanctions imposed by the Fifth Circuit.

Harper filed objections to the Report arguing that the sanctions imposed by the Fifth Circuit are "indisputably meritless" because the sanctions imposed by the Fifth Circuit uphold racism and violate the Civil Rights Act of 1964. Harper's objections have no basis in law or fact.

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge's proposed findings and recommendations to which the Plaintiff objected. *See* 28 U.S.C. §636(b)(1) (district judge shall "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") Upon such *de novo* review, the Court has determined that the Report of the Magistrate Judge is correct and the Plaintiff's objections are without merit. It is accordingly

**ORDERED** that the Petitioner's objections are overruled and the Report of the Magistrate Judge (docket no. 5) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled petition for the writ of habeas corpus is **DISMISSED WITH PREJUDICE** as barred by sanctions previously imposed upon Harper by the Fifth Circuit

Court of Appeals, except that Harper may refile his petition in the event that he obtains permission from the Fifth Circuit to do so. It is further

**ORDERED** that the Petitioner Darrell Harper is **DENIED** a certificate of appealability *sua sponte*. Finally, it is

**ORDERED** that any and all motions which may be pending in this action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this 1 day of **November**, 2016.

Ron Clark, United States District Judge

Rm Clark